

SPECIAL CIVIL APPLICATION NO. 3968 OF 1996.

Date of decision: 11.7.1996

For approval and signature

The Honourable Mr. Justice B.C. Patel

The Honourable Mr. Justice R. R. Jain

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Mr. Manish K. Kaji, advocate for petitioners.

Mr. M.J. Thakore, counsel for Mr. M.R. Bhatt, for respondent Nos.1 to 3.

Mr. S.V. Raju, advocate for respondent Nos.5 and 6.

Respondent No.4- served.

Coram:B.C.Patel & R.R.Jain,JJ.

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July 11, 1996.

Oral judgment (Per Patel, J.)

Rule. Mr. M.R. Bhatt, waives service of rule on behalf of respondent Nos.1 to 3. Mr. S.V. Raju, learned advocate waives service of rule on behalf of respondent Nos.5 and 6. Mr. Raju states that he has instruction to appear for respondent Nos.5 and 6. He further states that he will be filing Vakalatnama for respondent No.6 during the course of the day and for respondent No.5 within 15 days from today.

Petitioners have challenged legality and validity of the Acquisition order passed by respondent Nos.1, 2 and 3 being Appropriate Authority on 24.5.1996 under the provisions of Section 269 UD (1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The order is passed for pre-emptive purchase of the property bearing C.T.S.No.573 and Final Plot No.662 and Town Planning Scheme No.1 of Village Bhamburda (Shivaji Nagar) of Pune City.

Various grounds are raised in the petition. Our attention is drawn to para 6.8 wherein it has been pointed out that on the same road where the property in question is situated, property bearing C.T.S.No.1170/2 was a subject matter of the proceedings wherein parties agreed to have transaction at the rate of Rs.18,039/- per sq.mt. There is another instance of property bearing C.T.S.No.1264/2 and Final Plot No.592/2 which is 100 mts. off the road wherein agreement has been executed at the rate of Rs.18,894/- per sq.mt. Third instance shown is with regard to property bearing C.T.S.No.1238/2 which is situated on the Apte Road and which is situated about 500 mt. away from the property under consideration. The agreement in respect of that land was executed in the month of October 1995 at the rate of Rs.17,619/- per sq.mt. Other details are given about the property indicating better worth of property.

Mr. Thakore, learned counsel, after going through the record, fairly stated that the Appropriate Authority will reconsider the case as these instances were not placed before the Appropriate Authority. Mr. Thakore states that the Appropriate Authority will conclude the proceedings on or before 31.8.1996. Since the parties are before the Court, we direct the parties to appear before the Appropriate Authority on 13.8.1996 at Pune so as to enable Appropriate Authority to conclude the proceedings without wastage of time.

Mr. Raju, learned advocate appearing for respondent Nos.5 and 6, submitted that there is dispute between the parties about payment as the same has not been paid as

agreed. We do not enter into the merits of the case as it would be open for the parties to the proceedings to place material before Appropriate Authority when they appear and the Appropriate Authority will consider the same without being influenced by the order passed by this Court and the Appropriate Authority is directed to pass appropriate order in accordance with law, as aforesaid.

In the result, the impugned order dated 24.5.1996 for pre-emptive purchase, Annexure 'E' to the petition, is quashed and set aside. Appropriate Authority is directed to conclude the proceedings in accordance with law on or before 31.8.1996. Rule is made absolute with no order as to costs.